

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

SHERICE H. LOFTON,
Plaintiff(s),
v.
ANDREW SAUL,
Defendant(s).

Case No.: 2:21-cv-00549-NJK

Order

[Docket Nos. 5, 6]

Plaintiff has requested authority pursuant to 28 U.S.C. § 1915 to proceed *in forma pauperis* (Docket No. 5), and has submitted a Complaint (Docket No. 1-1).

I. Application to Proceed *In Forma Pauperis*

Plaintiff filed a renewed application to proceed *in forma pauperis*. Docket No. 5.¹ The application has sufficiently shown an inability to prepay fees and costs or give security for them. Accordingly, the application to proceed *in forma pauperis* will be granted pursuant to § 1915. The Court will now review Plaintiff's complaint.

II. Screening the Complaint

When a party seeks permission to pursue a civil case *in forma pauperis*, courts will screen the complaint. *See* 28 U.S.C. § 1915(e). With respect to social security appeals specifically, judges in this District have outlined some basic requirements for complaints to satisfy the Court's screening. First, the complaint must establish that administrative remedies were exhausted pursuant to 42 U.S.C. § 405(g), and that the civil action was commenced within 60 days after

¹ The renewed application was filed late, prompting Plaintiff to also file a motion to allow the late filing. Docket No. 5. In the future, such a request should be filed *before* expiration of the subject deadline. *Cf.* Fed. R. Civ. P. 6(b)(1). In this instance, however, the Court will grant the request for extension *nunc pro tunc*.

notice of a final decision. Second, the complaint must indicate the judicial district in which the plaintiff resides. Third, the complaint must state the nature of the plaintiff's disability and when the plaintiff claims to have become disabled. Fourth, the complaint must contain a plain, short, and concise statement identifying the nature of the plaintiff's disagreement with the determination made by the Social Security Administration and show that the plaintiff is entitled to relief. *See, e.g., Graves v. Colvin*, 2015 WL 357121, *2 (D. Nev. Jan. 26, 2015) (collecting cases).

The Court has reviewed the complaint, and finds these elements satisfied in this case.

III. Conclusion

Accordingly, the Court hereby **ORDERS** as follows:

1. Plaintiff's request to extend the deadline to refile the application to proceed *in forma pauperis* is **GRANTED**.
2. Plaintiff's request to proceed *in forma pauperis* is **GRANTED** with the caveat that the fees shall be paid if recovery is made. At this time, Plaintiff shall not be required to pre-pay the filing fee.
3. Plaintiff is permitted to maintain this action to conclusion without the necessity of prepayment of any additional fees or costs or the giving of a security therefor. The Order granting leave to proceed *in forma pauperis* shall not extend to the issuance of subpoenas at government expense.
4. The Clerk of Court shall file the Complaint.
5. The Clerk of Court shall serve the Commissioner of the Social Security Administration by sending a copy of the summons and Complaint by certified mail to: (1) Office of Regional Chief Counsel, Region IX, Social Security Administration, 160 Spear St., Suite 899, San Francisco, California 94105-1545; and (2) the Attorney General of the United States, Department of Justice, 950 Pennsylvania Avenue, N.W., Room 4400, Washington, D.C. 20530.
6. The Clerk of Court shall issue summons to the United States Attorney for the District of Nevada and deliver the summons and Complaint to the U.S. Marshal for service.

1 7. From this point forward, Plaintiff shall serve upon Defendant or, if appearance has been
2 entered by counsel, upon the attorney, a copy of every pleading, motion or other
3 document submitted for consideration by the court. Plaintiff shall include with the
4 original paper submitted for filing a certificate stating the date that a true and correct
5 copy of the document was personally served or sent by mail to the defendants or
6 counsel for the defendants. The court may disregard any paper received by a district
7 judge or magistrate judge which has not been filed with the Clerk, and any paper
8 received by a district judge, magistrate judge or the Clerk which fails to include a
9 certificate of service.

10 IT IS SO ORDERED.

11 Dated: April 22, 2021

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14 Nancy J. Koppe
15 United States Magistrate Judge
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